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April 4, 2016

VIA ECF

Hon. Margo K. Brodie, U.S.D.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room N 626
Brooklyn, New York 11201

RE: Commercial Lubricants v. Safety-Kleen Systems, Inc.
USDC - Docket No.: 1:14-V-07483
BS&C File No.: ZA6-3878

Dear Judge Brodie:

This office represents Defendant/Counterclaim Plaintiff Safety-Kleen Systems, Inc. ("Safety-Kleen"), in this matter. Pursuant to Section 3(A) of Your Honor's Motion and Individual Practices, we write to request a pre-motion conference regarding Safety-Kleen's proposed motion to compel the Plaintiff/Counterclaim Defendant Commercial Lubricants, LLC. ("Metrolube") to produce documents that allegedly support its Tortious Interference With Contract (Count X) and Tortious Interference with Prospective Economic Advantage (Count XI) claims contained in the Second Amended Complaint filed by (*see* Dkt. 14).

I. BACKGROUND

On May 14, 2015, Safety-Kleen served Metrolube with requests for production of documents. Safety-Kleen received Metrolube's responses to request for production of documents on June 5, 2015, without the responsive documents. Metrolube produced documents responsive to the requests on August 7, 2015. Request No. 4 sought the production of all accounting records supporting the allegations in Metrolube's Complaint. Request No. 7 sought all documents, data and tangible things supporting the allegation in the Complaint. Request No. 30 and Request No. 31 sought all documents supporting Count X and Count XI of Metrolube's Complaint, respectively. Metrolube's document responses do not include documents supporting the damages allegedly sustained under Count X or Count XI of the Complaint.

Recently, Safety-Kleen conducted the depositions of two primary owning members of Metrolube, Gary Stetz and Spencer Robins, Esq. Each witness testified that they believe that Metrolube sustained \$16,000,000.00 in damages as a result of the defendant's tortious interference

with contract and tortious interference with its economic advantage. It is anticipated that the plaintiff will hire an expert witness to support the alleged damages. The deadline for the plaintiff's expert disclosures is April 30, 2016.

II. BASIS FOR PROPOSED MOTION

Safety-Kleen is seeking the Court's permission to file a motion to compel the plaintiff's production of documents supporting its alleged damages, or to preclude Metrolube from seeking damages for Count X and Count XI at trial. Safety-Kleen, in order to properly prepare for trial, the must be provided the documentation allegedly supporting the damages prior to the close of discovery or expert disclosure, so that it may evaluate the information and consider whether or not further discovery is required pertaining to the considerable damages alleged by Metrolube.

Counsel for Safety-Kleen has requested on several occasions that Metrolube supplement its responses to request for production of documents, including in writing and during the depositions of Gary Stetz in January 2016, and Spencer Robbins in March 2016. Metrolube has not yet provided the documentation requested or a firm date for the production of the documentation. Discovery expires on April 30, 2016. For these reasons, Safety-Kleen requests that his honorable court permit it to file a substantive motion to compel.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Aaron R. White', enclosed within a large, loopy oval stroke.

Aaron R. White

ARW/aeb

Cc: All Counsel of record (*via ECF*)

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